THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.10262 OF 2003

DATED 05th JULY, 2007

BETWEEN

Gadde Sobhana Chelam

… Petitioner

AND

The Special Deputy Collector (Tribal Welfare), K.R.Puram, Buttayigudem Mandal, West Godavari District and another.

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.10262 OF 2003

ORDER:

The petitioner allegedly purchased the land admeasuring Acs.8.70 in R.S.No.693/1 situated at Buttaigudem Village and Mandal of West Godavari District under registered sale deed, dated 27.08.1966 from Sri Karatam Satyanarayana (non-tribal). The petitioner states that the land is part of Guntala Zamin Estate and therefore, he approached the Settlement Officer and obtained ryotwari patta under A.P. (Scheduled Areas Ryotwari Settlement) Regulation, 1970 (Regulation II of 1970) vide proceedings in S.R.No.11(a) 208/79, dated 25.03.1980. First respondent, however, initiated action in S.R.No.94 of 1996 under Section 3(2) of A.P.Scheduled Areas Land Transfer Regulation, 1959, as amended by Regulation No.1 of 1970 (the Regulation, for brevity). By order, dated 10.01.1996, first respondent dropped action. Again in 2000, first respondent initiated action in S.R.No.2051 of 2000, which was also closed by order, dated 10.04.2001. The same has become final. However, the impugned notice, dated 08.05.2003, has been issued to petitioner alleging that he is in possession of the land admeasuring Acs.2.00 in R.S.No.693/1 in contravention of the Regulation. The petitioner assails the said notice in the writ petition.

Counter affidavit is filed by first respondent. It is stated that against the order, dated 10.04.2001 in S.R.No.2051 of 2000 passed by first respondent, the Special Deputy Tahsildar preferred Appeal being S.R.A.No.35 of 2002 before the Agent to Government and the same is pending. In the meanwhile, one Sodem Rama Rao filed writ petition being W.P.No.5552 of 2003 alleging that his complaint claiming restoration of land in R.S.No.693/1 was not registered and this Court gave a direction on 01.04.2003 to register the complaint. Therefore, the complaint given by Sodem Rama Rao was registered as S.R.No.58 of 2002 and the impugned notice was issued to the petitioner on 08.05.2003. Therefore, the counter

avers that the principle of *res judicata* would not apply.

There is a controversy as to whether the impugned notice, dated 08.05.2003 or notice, dated 25.04.2003 (as alleged in the counter affidavit) at the instance of Sodem Rama Rao was issued to the petitioner. In all probability, if the impugned notice is issued at the behest of Sodem Rama Rao and in obedience to the orders of this Court in W.P.No.5552 of 2003, the same could not have been on 25.04.2003. If notice in Form-E was in fact issued on 25.04.2003 as averred in counter affidavit, the impugned notice would certainly be of mistake of fact. This view is also supported by the averment made in para 3 of the counter affidavit that against S.R.No.2051 of 2000, dated 10.04.2001, Special Deputy Tahsildar (Tribal Welfare) has preferred an Appeal being S.R.A.No.35 of 2002. Therefore, till the said Appeal is finalized by Agent to Government, the first respondent should keep the enquiry in abeyance pursuant to the impugned notice, dated 08.05.2003. In case, the Agent allows S.R.A.No.35 of 2002, there would not be any necessity for the first respondent to proceed further in the enquiry pursuant to the impugned notice. The petitioner is given liberty to raise all the grounds before the Agent to Government including the validity of the notice now issued while the Appeal is pending. Till the proceedings are finalized, the petitioners would not be dispossessed from the land.

The writ petition is accordingly disposed of. No costs.

_____

(V.V.S.RAO,J)

05.07.2007.
pln